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STATE FOR IO/RHS, DRL/MLA, L/HRR

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SUBJECT: SEPTEMBER 1 INFORMALS FOR HUMAN RIGHTS COUNCIL'S SECOND SESSION AND REQUEST FOR GUIDANCE

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Summary

¶1. Human Rights Council (HRC) President Luis Alfonso de Alba chaired informal consultations September 1 to discuss the upcoming HRC session (Sept. 18-Oct. 6), which is expected to deal with substantive matters deferred at the first session in June. According to de Alba's draft timetable, each mandate holder would have one hour to report and participate in an interactive dialogue session. The order in which the rapporteurs would give their reports was tied to the order in which rights were addressed in the Universal Declaration of Human Rights. De Alba stressed the timetable was simply a draft for discussion and that substantive talks would be held on September 6. Attacking the order of reports, which mixed thematic and country mandates, Cuba demanded that all country reports be clustered together so that "the virus" could be dealt with. China echoed Cuba's demand, taking it a step further by suggesting that the Council, as the parent body, decide their fate at the upcoming session without input from the working group specifically created to review all mandates. Given the large number of overdue reports, de Alba proposed an omnibus resolution to cover all special procedure reports to save time. Septel reports on de Alba's announcement regarding the fact-finding mission to Lebanon. Proposed program of work for the September session of the Council was e-mailed to DRL/MLA, IO/RHS, and L/HRR. Action request at paras 5 and 6. End Summary.

Going After Country Mandates

¶2. De Alba, who had previously told us he wanted to avoid making the country-specific mandates a target, proposed that special procedures mandate holders give their reports in the order in which the themes or rights appear in the Universal Declaration of Human Rights. Most countries were cautious about the approach with the EU asking that they be done in alphabetical order according to the last name of the special rapporteur or chair. Cuba immediately and directly attacked de Alba's proposal, demanding that all country-mandate reports be clustered. Cuban PermRep Juan Antonio Fernandez Palacios, accused de Alba of manipulating the program of work and order of the reports to protect the "virus" of country-specific mandates, which should be dealt with as one. He also rejected de Alba's suggestion that states refrain from presenting individual resolutions on the reports, saying that Cuba would not give up its right to present resolutions "up to the final minute" of the session. Fernandez also called for the five rapporteurs ("the brave ones"), who had requested access to Guantanamo Base, to be clustered to give their report on Guantanamo jointly. China, Russia, Belarus

and a several members of the Organization of the Islamic Conference (OIC) also insisted that country mandate holders be clustered together. China took the idea even further by suggesting that the Council as the parent body -- rather than the mandate review working group -- review country-specific mandates during the upcoming session and decide whether to keep or eliminate them. U.S. del as well as UK and Canada stressed that the working group on mandate review had been charged with reviewing all mandates and making recommendations to the plenary and the outcome of that review could not be prejudged.

Omnibus Resolution

¶13. To save time, de Alba suggested combining all special procedure reports into one omnibus resolution or HRC consensus statement that would highlight the key action items in each report. He said it would only be done for the September session and the Council could revert back to the traditional system of having a resolution for each report at subsequent sessions. He acknowledged that many of the rapporteurs had more than one report to present, so his intention was simply to save time for everyone by negotiating a resolution for the scores of reports originally scheduled to be given during the last CHR session in March. De Alba asked that in the case individual resolutions were presented, states refrain from including the operative paragraph traditionally included at the end of resolutions, calling for an issue to be placed on the Council's agenda. He reminded states that this had, at least in part, led to a large and unwieldy agenda for the Commission. Speaking on behalf of the European Union, Finland said it was important that each mandate holder be given sufficient time to present reports. In all, de Alba said there were more than 150 resolutions to be considered at the September three-week session. Most delegations did not immediately address this proposal,

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preferring to study it and offer reactions at the September 6 informals.

New Segment

¶14. De Alba also announced that in the interest of making the HRC more effective on the ground, he planned to include a new segment during the HRC sessions dedicated to following up on decisions taken by the HRC. He hopes to use this time to highlight the importance of implementation of human rights decisions.

Action Requests

¶15. Mission Geneva requests the Department's guidance on the proposals made by de Alba for the second session. On the order of special procedures reports, Mission believes it is important to avoid clustering the country mandate reports by either following alphabetical order or the UDHR order proposed by de Alba. We do see, however, difficulties with the omnibus resolution or consensus HRC statement. It is not within de Alba's mandate as HRC president or within the Secretariat's mandate to decide which, if any, recommendation

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in a report takes precedence over the others for implementation. Many of the reports contain recommendations that exceed the mandate of the rapporteur, expert or working group. How would inclusion of these recommendations in an omnibus resolution be addressed. A likely scenario if such a resolution or statement were presented, would be a paragraph by paragraph vote. In preparation for the inter-active dialogue with special procedures, Mission will forward separately a list of reports and interventions to which the United States may wish to respond.

¶6. De Alba's request that no resolutions be presented during the September session will most probably be disregarded, as indicated by Cuba's vehement rejection of the proposal (and its likely plan to propose a resolution to eliminate the Cuba mandate). Mission understands that decisions are pending regarding U.S. support for resolutions or intention to ask friendly HRC member states to run resolutions on our behalf. With the HRC scheduled to begin September 15, Mission notes that we have only two weeks to agree upon and carry out a strategy for gaining support for any resolution we may want to see adopted by the HRC.

TICHENOR